



STAFF REPORT  
CITY OF BEVERLY HILLS

For the Planning  
Commission Meeting of  
January 14, 2009

**TO:** Planning Commission  
**FROM:** Ryan Gohlich, Associate Planner  
**THROUGH:** David Reyes, Acting City Planner  
**SUBJECT:** Request for approval of Tentative Tract Map No. 53673 for an 11-unit condominium project located at **140-144 South Oakhurst Drive.**



**RECOMMENDATION**

It is recommended that the Planning Commission adopt the attached resolution approving Tentative Tract Map No. 53673 for an 11-unit condominium project located at 140-144 South Oakhurst Drive.

**EXECUTIVE SUMMARY**

Moussa Shaaya, on behalf of Wilduns Shaaya LLC (the property owner), has filed a request for approval of Tentative Tract Map 53673. The Tentative Tract Map is a component of an 11-unit condominium project that was previously approved by the Planning Commission at its January 23, 2002 meeting, pursuant to Planning Commission Resolution No. 1215. The project has been fully constructed and remains unoccupied; however, the previously approved Tentative Tract Map has expired. Because the Tentative Tract Map has expired, the units cannot be sold individually as condominiums, and the applicant has filed an application for a new Tentative Tract Map, which would facilitate the individual sale of the units.

**BACKGROUND**

The subject project was reviewed by the Planning Commission and approved at its January 23, 2002 meeting, subject to specific conditions of approval. Issues discussed

by the Commission, and mitigated through project-specific conditions of approval, included building massing, aesthetics, and construction related impacts. As conditioned, the Commission was able to make all the necessary findings to approve the Development Plan Review Permit (required for construction of the project), R-4 Permit (required for increased paving within the front setback and to allow the basement garage to encroach into the front setback), and the Tentative Tract Map (required for individual sale of condominium units). To date, one one-year time extension was granted for the project's entitlements by the Planning Commission. Since that time the rights granted pursuant to the Development Plan Review Permit and R-4 Permit have been exercised through the issuance of building permits and construction of the project, which prevented them from expiring; however, the originally approved Tentative Tract Map lapsed before the Final Map was fully recorded with the Los Angeles County Assessor's Office. Because the Tentative Tract Map expired prior to recordation of the Final Map, a new Tentative Tract Map must be approved before the applicant can proceed with recording a Final Map.

### **PROJECT DESCRIPTION**

The project before the Planning Commission is a request for approval of a Tentative Tract Map for a condominium project that was previously approved by the Commission. The approved project is a four-story, 45-foot tall building, with 11 units totaling approximately 25,600 square feet. The project provides a two-level subterranean garage that contains 30 parking spaces, which is one more space than required by code. A 10-foot wide walkway provides access from the public sidewalk to the building. An R-4 Permit was approved to allow increased paving within the front setback and to allow the basement garage to encroach into the front setback. As conditioned the outdoor living space meets the minimum area required by the Municipal Code. The locations for outdoor living space include patios/balconies located outside of the required front setback, as well as rooftop deck area.

### **ANALYSIS AND FINDINGS**

The Planning Commission approved this 11-unit condominium project on January 23, 2002. Because the project has been completed, the Development Plan Review Permit and R-4 Permit are no longer subject to review by the Commission; however, specific findings are required to be made when approving a Tentative Tract Map. Although a Tentative Tract Map was previously approved for the project, the current request is a new application and the Commission must determine that all required findings can be made in order to approve the project. In reviewing previously approved projects regarding time extensions, it has been a practice of the Commission to require either full or partial compliance with the City's current green building standards. Typically staff would support the incorporation of green building standards into a previously approved project; however, the project before the Commission has been fully constructed, which eliminates the possibility of incorporating green building standards into the project

without substantial modifications and cost to the applicant. Further, the application before the Commission affects the use and sale of the individual units, and is unrelated to the design or construction methods used in the project. Therefore, staff does not recommend that green building standards be imposed on the applicant.

The findings required to be made by the Planning Commission, pursuant to the procedures set forth in the Subdivision Map Act, are provided below along with staff's analysis supporting approval of the project.

**1) That the proposed map is consistent with applicable general and specific plans;**

The proposed map is consistent with the General Plan of the City and is not adjacent to any specific plan areas. The proposed map is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan land use designation for the project site is "multi-family residential." The proposed map includes 11 residential condominium units, which are permitted by right under the General Plan land use designation for the project site.

**2) That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans;**

The design and improvement of the proposed subdivision is consistent with the General Plan of the City and is not adjacent to any specific plan areas. The proposed improvement and subdivision is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan land use designation for the project site is "multi-family residential." The proposed improvement and subdivision includes 11 residential condominium units, which are permitted by right under the General Plan land use designation for the project site.

**3) That the site is physically suitable for the type of development;**

The site is physically suitable for the type of proposed development. The site is zoned R-4, and the R-4 zone permits multi-family residential development. Further, the site is regularly shaped, is not subject to varying topography, and is capable of supporting the proposed type of development.

**4) That the site is physically suitable for the proposed density of development;**

The site is physically suitable for the proposed density of development. The R-4 development standards permit 10 standard units and one efficiency unit on the project site. The proposed density is consistent with this requirement, and adequate public facilities exist to serve the proposed project.

- 5) That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially or avoidably injure fish or wildlife or their habitat;**

A Negative Declaration was prepared for the previously approved project, and was adopted by the Planning Commission on January 23, 2002. The Negative Declaration found that the project would not cause substantial environmental damage or substantially or avoidably injure fish or wildlife or their habitat. The proposed project is located on an infill site that was previously developed with multi-family housing, and the structure was constructed in substantial conformance with the adopted Negative Declaration. Therefore, approval of the requested Tentative Tract Map will not modify the project, and will not result in any adverse environmental impacts that were not previously reviewed.

- 6) That the design of the subdivision or type of improvements is not likely to cause serious public health problems; and**

A Negative Declaration was prepared for the previously approved project, and was adopted by the Planning Commission on January 23, 2002. The Negative Declaration found that the project would not cause serious public health problems. The proposed project is located on an infill site that was previously developed with multi-family housing, and the structure was constructed in substantial conformance with the adopted Negative Declaration. Therefore, approval of the requested Tentative Tract Map will not modify the project, and will not result in any adverse environmental impacts that were not previously reviewed.

- 7) That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.**

The design of the subdivision has been reviewed by the City's Public Works and Engineering Departments, and has been found to not be in conflict with any public easements. Additionally, a 2.5-foot dedication has been provided along the rear alley in accordance with the City's Street Master Plan in order to provide improved access along the alleyway.

## **PUBLIC NOTICE**

Notice of the proposed project and public hearing was mailed on January 4, 2010 to all property owners and residential tenants within a 300-foot radius of the property, and all single-family zoned properties within 500 feet from the exterior boundaries of the property. To date, staff has not received any comments in regard to the time extension request.

**ENVIRONMENTAL DETERMINATION**

This project was previously assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City, and a Negative Declaration was adopted. There have been no changes to the project and no substantial changes to the environment that would cause the project to significantly impact the environment. Therefore, there is no substantial evidence that the approval of the requested extension may have any significant environmental impact. The original Negative Declaration continues to represent the independent judgment of the City, and no additional environmental review is required under CEQA.

**RECOMMENDATION**

Staff recommends that the Planning Commission adopt the attached resolution, inclusive of all conditions of approval, approving the Tentative Tract Map.

  
RYAN GOHLICH,  
Associate Planner

**Attachments:**

1. Draft Planning Commission Resolution
2. January 23, 2002 Planning Commission Resolution No. 1215

# ***ATTACHMENT 1***

## ***Draft Planning Commission Resolution***

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF BEVERLY HILLS APPROVING  
TENTATIVE TRACT MAP 53673 FOR AN 11-UNIT  
CONDOMINIUM PROJECT LOCATED AT 140-144  
SOUTH OAKHURST DRIVE.

The Planning Commission of the City of Beverly Hills hereby finds, resolves and determines as follows:

Section 1. Moussa Shaaya, on behalf of Wilduns Shaaya LLC (the property owner), filed a request for approval of Tentative Tract Map 53673. The Tentative Tract Map is a component of an 11-unit condominium project that was previously approved by the Planning Commission at its January 23, 2002 meeting, pursuant to Planning Commission Resolution No. 1215. The Project has been fully constructed and remains unoccupied; however, the previously approved Tentative Tract Map has expired. Because the Tentative Tract Map has expired, the units cannot be sold individually as condominiums. To remedy the situation a new application for a Tentative Tract Map was filed in order to facilitate the individual sale of the units.

The previously approved Project is a four-story, 45-foot tall building, with 11 units totaling approximately 25,600 square feet. The Project provides a two-level subterranean garage that contains 30 parking spaces, which is one more space than required by code. A 10-foot wide walkway provides access from the public sidewalk to the building. An R-4 Permit was previously approved to allow increased paving within the front setback and to allow the basement garage to encroach into the front setback. As constructed the outdoor living space meets the minimum area required by the Municipal Code. The locations for outdoor living space

include patios/balconies located outside of the required front setback, as well as rooftop deck area.

Section 2. The Planning Commission approved this 11-unit condominium project on January 23, 2002. Because the Project has been completed, the Development Plan Review Permit and R-4 Permit are no longer subject to review by the Commission; however, specific findings are required to be made when approving a Tentative Tract Map. Although a Tentative Tract Map was previously approved for the Project, the current request is a new application that is subject to all required findings. In reviewing previously approved projects, it has been a practice of the Commission to require either full or partial compliance with the City's current green building standards. However, because the Project has been fully constructed, incorporating green building standards into the Project cannot be accomplished without substantial modifications and cost to the Applicant. Further, the requested Tentative Tract Map affects the use and sale of the individual units, and is unrelated to the design or construction methods used in the Project. Therefore, green building standards have not been imposed on the Project.

Section 3. The Project was previously environmentally reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA guidelines (California Code of Regulations, Title 14, Section 15000 *et seq.*) and the City's environmental guidelines, and a negative declaration was adopted. Based on the initial study, the previously adopted negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that there have

been no substantial changes to the Project or to the environment that would cause the Project to significantly impact the environment. Therefore, the previously adopted negative declaration continues to represent the independent judgment of the City and there is no substantial evidence that the approval of the Project or this extension may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Community Development and are in the custody of the Director of Community Development.

Section 4. Notice of the Project and public hearing was mailed on January 4, 2010 to all property owners and residential tenants within a 300-foot radius of the property. On January 14, 2010 the Planning Commission considered the application at a duly noticed public meeting. Evidence, both written and oral, was presented at said meeting.

Section 5. In considering the request for Tentative Tract Map, the Planning Commission considered the following criteria:

1. That the proposed map is consistent with applicable general and specific plans;
2. That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans;
3. That the site is physically suitable for the type of development;
4. That the site is physically suitable for the proposed density of development;

5. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially or avoidably injure fish or wildlife or their habitat;

6. That the design of the subdivision or type of improvements is not likely to cause serious public health problems; and

7. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Section 6. Based on the foregoing, the Planning Commission hereby finds and determines as follows:

1. The Tentative Tract Map is consistent with the General Plan of the City and is not adjacent to any specific plan areas. The Tentative Tract Map is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan land use designation for the Project site is “multi-family residential.” The Tentative Tract Map includes 11 residential condominium units, which are permitted by right under the General Plan land use designation for the Project site.

2. The design and improvement of the subdivision is consistent with the General Plan of the City and is not adjacent to any specific plan areas. The improvement and subdivision is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan land use designation for the Project site is “multi-family residential.” The improvement and

subdivision includes 11 residential condominium units, which are permitted by right under the General Plan land use designation for the Project site.

3. The Project site is physically suitable for the type of proposed development. The site is zoned R-4, and the R-4 zone permits multi-family residential development. Further, the site is regularly shaped, is not subject to varying topography, and is capable of supporting the proposed type of development.

4. The Project site is physically suitable for the proposed density of development. The R-4 development standards permit 10 standard units and one efficiency unit on the Project site. The proposed density is consistent with this requirement, and adequate public facilities exist to serve the Project.

5. A Negative Declaration was prepared for the previously approved Project, and was adopted by the Planning Commission on January 23, 2002. The Negative Declaration found that the Project would not cause substantial environmental damage or substantially or avoidably injure fish or wildlife or their habitat. The proposed Project is located on an infill site that was previously developed with multi-family housing, and the structure was constructed in substantial conformance with the adopted Negative Declaration. Therefore, approval of the Tentative Tract Map will not modify the Project, and will not result in any adverse environmental impacts that were not previously reviewed.

6. A Negative Declaration was prepared for the previously approved Project, and was adopted by the Planning Commission on January 23, 2002. The Negative Declaration found that the Project would not cause serious public health problems. The proposed Project is located on an infill site that was previously

developed with multi-family housing, and the structure was constructed in substantial conformance with the adopted Negative Declaration. Therefore, approval of the Tentative Tract Map will not modify the Project, and will not result in any adverse environmental impacts that were not previously reviewed.

7. The design of the subdivision has been reviewed by the City's Public Works and Engineering Departments, and has been found to not be in conflict with any public easements. Additionally, a 2.5-foot dedication is provided along the rear alley in accordance with the City's Street Master Plan in order to provide improved access along the alleyway.

Section 7. Based on the foregoing, the Planning Commission hereby approves the Tentative Tract Map, subject to all applicable original project conditions set forth in Planning Commission Resolution No. 1215, and the following conditions of approval:

1. In order to ensure consistency with BHMC Section 10-2-704 regarding assignment of parking spaces, the Covenants, Conditions, and Restrictions (CC&Rs) shall be modified to appropriately assign parking spaces within the Project. Parking space assignments shall be modified as follows:

- (a) Each efficiency unit shall be assigned one (1) parking space.
- (b) Each one-bedroom unit shall be assigned two (2) parking spaces.
- (c) Four (4) of the seven (7) two-bedroom units shall be assigned three (3) parking spaces.
- (d) Three (3) of the seven (7) two-bedroom units shall be assigned two (2) parking spaces.
- (e) Each three-bedroom unit shall be assigned three (3) parking spaces.

(f) Three (3) fully accessible parking spaces shall be reserved for guest parking.

2. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

3. This resolution granting the requested Tentative Tract Map shall not become effective until the owner of the Project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of this resolution as an exhibit. The Applicant shall deliver the executed covenant to the Department of Planning & Community Development **within 60 days** of the Planning Commission decision. At the time that the Applicant delivers the covenant to the City, the Applicant shall also provide the City with all fees necessary to record the document with the County Recorder. If the Applicant fails to deliver the executed covenant within the required 60 days, this resolution approving the Project **shall be null and void and of no further effect**. Notwithstanding the foregoing, the Director of Planning & Community Development may, upon a request by the Applicant, grant a waiver from the 60 day time limit if, at the time of the request, the Director determines that there have been no substantial changes to any federal, state or local law that would affect the Project.

Section 8. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted:

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Nanette H. Cole  
Chair of the Planning Commission of the  
City of Beverly Hills, California

Attest:

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Secretary

Approved as to form:

Approved as to content:

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David M. Snow  
Assistant City Attorney

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David Reyes  
Acting City Planner

*RG.*

***ATTACHMENT 2***

***January 23, 2002 Planning Commission Resolution No. 1215***

RESOLUTION NO. 1215

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS ADOPTING A NEGATIVE DECLARATION AND CONDITIONALLY APPROVING TENTATIVE TRACT MAP NO. 53673, A DEVELOPMENT PLAN REVIEW PERMIT AND R-4 PERMITS FOR A TEN UNIT PLUS ONE EFFICIENCY UNIT, FOUR-STORY RESIDENTIAL CONDOMINIUM STRUCTURE LOCATED ON TWO CONTIGUOUS LOTS AT 140-144 SOUTH OAKHURST DRIVE

The Planning Commission of the City of Beverly Hills hereby finds, resolves, and determines as follows:

Section 1. Yassi Gabbay, Gabbay Architects, on behalf of Gerami Inc., property owner, hereinafter referred to as "applicant," has submitted an application for approval of Tentative Tract Map No. 53673, a Development Plan Review Permit and R-4 Permits for a proposed ten-unit plus one efficiency unit, four-story residential condominium structure located on two contiguous lots at 140-144 South Oakhurst Drive (the "project"). Parking for thirty (30) cars, including three guest spaces will be provided in a two-level subterranean garage located off the alley, at the rear of the property. The applicant has requested R-4 Permits to allow the following: (1) to allow the basement garage to encroach into the front setback, and (2) to allow the main walkway to exceed five feet in width.

Section 2. The project has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA")), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, et seq.), and the City's Local CEQA Guidelines. The City prepared an initial study and, based on the information contained in the initial study, determined that there was no substantial evidence that approval of the project may have significant environmental impact. Accordingly, the City prepared a negative declaration in accordance with Section 15070 of the State CEQA Guidelines. Pursuant to Section 15074(b) of said Guidelines, the Planning Commission independently reviewed and considered the contents of the initial study and the negative declaration prior to deciding whether to approve the project. Based on the initial study, the negative declaration, the comments received thereon, and the record before the Planning Commission, the Planning Commission hereby finds that the negative declaration prepared for the project represents the independent judgment of the City and that there is no substantial evidence that the approval of the project may have any significant environmental impact. The documents and other material which constitute the record on which this decision is based are located in the Department of Planning and Community

Development and are in the custody of the Director of Planning and Community Development.

Section 3. On December 13, 2001, the Planning Commission held a duly noticed public hearing to consider the project. Evidence, both written and oral, was presented at said hearing.

Section 4. Pursuant to Beverly Hills Municipal Code Section 10-2.201, in reviewing the application for Vesting Tentative Tract Map No. 53673, the Planning Commission considered the following issues:

1) Whether the proposed tentative tract map and the design or improvement of the proposed subdivision are consistent with the General Plan of the City;

2) Whether the site is physically suitable for the type of development and the proposed density;

3) Whether the design of the subdivision and the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;

4) Whether the design of the subdivision or type of improvements are likely to cause serious public health problems

and that the design of the subdivision or the type of improvements will not conflict with any public easements; and

5) Whether the discharge of waste water from the proposed subdivision into the existing sewer systems will result in a violation of existing requirements presented by the California Water Quality Control Board.

Section 5. Based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony, the Planning Commission hereby finds as follows with respect to Vesting Tentative Tract Map No. 53673:

5.1 As conditioned, the proposed project and its design and improvements are consistent with the General Plan of the City. The proposed project is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is "multi-family residential." The proposed project will consist of a ten-unit plus one efficiency unit residential condominium structure, and condominium developments are permitted by right under the General Plan land-use designation for the project site.

5.2 As conditioned, the site is physically suitable for the type of development and the proposed density. The site is zoned R-4. The R-4 zone permits maximum density of ten (10)

units on the project site plus a bonus density of one (1) efficiency unit. Adequate public facilities exist to serve a ten-unit plus one efficiency unit residential condominium structure.

5.3 As conditioned, the proposed project will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The project will not significantly impact the area based upon the increase in the number of residential units at the site. Although the project site is currently vacant, the urban location of the project and the design of the proposed building and other improvements will not substantially injure fish or wildlife or their habitat. Due to the urban location of the project, there are no fish or wildlife, or their respective habitats, in the vicinity of the project site that could be potentially impacted by the proposed development.

5.4 The design of the subdivision and the type of improvements will not cause serious public health problems, and will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. There are no existing public easements on the project site, and all improvements on the project site will meet City health code standards.

5.5 The discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the California Regional Water Quality Board.

Section 6. In accordance with the provisions of Beverly Hills Municipal Code Section 10-3.3104, in reviewing the application for a Development Plan Review Permit, the Planning Commission considered the following issues:

1) Whether the proposed plan is consistent with the General Plan and any specific plans adopted for the area;

2) Whether the proposed plan will adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area;

3) Whether the proposed plan will significantly and adversely interfere with the use and enjoyment of residential properties in the vicinity of the subject property; and

4) Whether the proposed plan will create any significantly adverse traffic impact, traffic safety hazards, pedestrian-vehicle conflicts, or pedestrian safety hazards and will not be detrimental to the public health, safety or general welfare.

Section 7. Based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony, the Planning Commission hereby finds as follows with respect the Development Plan Review Permit:

7.1 As conditioned, the proposed project and its design and improvements are consistent with the General Plan of the City. The proposed project is compatible with the objectives, policies, general land uses, and programs specified in the General Plan. The General Plan designation for the proposed site is "multi-family residential." The proposed project will consist of a ten unit plus one efficiency unit residential condominium structure and, subject to a development plan review, condominiums are permitted by right in the R-4 Zone.

7.2 As conditioned, the proposed project will not adversely affect existing and anticipated development in the vicinity and will promote harmonious development of the area. The French Mediterranean architectural design of the building, including its integration of balconies, provides for relief and modulation at all floors. The project is consistent with the residential neighborhood and makes a good transition to commercial areas to the east. In addition, shade and shadow impacts resulting from a four-story structure will not be significant because they do not occur year-round, and they do not cast shadow on the entire building to the north (a two-story

apartment building). Therefore, the project is consistent and harmonious with the nature and type of development designated for the area in the General Plan.

7.3 As conditioned, the proposed project will not create any significant adverse traffic impacts nor vehicular or pedestrian safety or circulation problems. A traffic report prepared for the project indicates that the proposed project will generate a nominal amount of new trips. Thirty parking spaces, the amount required by the Code for the ten units plus one efficiency unit, have been provided for the project. In order to provide safe ingress and egress for the project, the parking garage has been designed with a single access gate located past an intercom station. Signage will indicate the availability of (three) on-site guest parking spaces, and the parking spaces will result in a reduction in street parking demand in the area. Furthermore, the applicant will dedicate two and one-half feet (2.5') for future widening of the alley at the rear of the project, in order to provide easier access to parking areas for both multi-residential and commercial properties facing Doheny Drive. Finally, in order to reduce impacts to traffic and parking during construction, the applicant shall provide a construction parking and hauling plan for review and approval by the Engineering Division and the Building & Safety Department to determine the amount, appropriate routes, and time of day of

heavy hauling truck traffic necessary for demolition and deliveries to the subject site. Therefore, the project will have no adverse traffic or parking related impacts on the neighborhood.

7.4 As conditioned, the proposed project will not be detrimental to the public health, safety, or general welfare. The project will be constructed in accordance with the City's Building Code standards, and adequate open space living area has been provided as part of the project.

Section 8. Based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony, the Planning Commission finds as follows with respect to the application for the R-4 Permit:

8.1 The applicant has requested an R-4 permit to allow its basement garage to encroach into the front setback. Pursuant to Beverly Hills Municipal Code Section 10-3.2811(e), a basement garage may encroach into the front setback even if the garage is not two feet below the finished level of the adjacent sidewalk if (i) the building is subject to the requirements of Title 9, Chapter 7, concerning protection against water intrusion, (ii) no portion of the encroachment is more than three feet above grade, and (iii) the Planning Commission determines that the applicant will provide alternate means to accommodate substantial

landscaping in the front yard. The project, as proposed, complies with all of these requirements.

8.2 The applicant has additionally requested an R-4 Permit to allow its main walkway to exceed five feet in width. Pursuant to Beverly Hills Municipal Code Section 10-3.2813, walkways of up to a maximum of fifteen feet (15') wide may be permitted, provided the Planning Commission finds the walkways are compatible with the nearby streetscape and with the scale of the surrounding development. Given that the proposed project covers two contiguous lots, the proposed width of the walkway of ten feet will be proportionate to the scale of the project and the streetscape in the neighborhood.

Section 9. Based upon the evidence presented with respect to the efficiency unit, the Planning Commission makes the following findings:

9.1 An efficiency unit may be permitted in a multiple-family residential building, provided that the following requirements are met:

- a. The efficiency unit has a minimum floor area of six hundred (600) square feet; and
- b. One parking space shall be provided for each efficiency unit of less than one thousand (1,000) square feet.

9.2 As approved, the project will provide one efficiency unit with a floor area of 740 square feet, as shown on the plans dated December 13, 2000, and one additional parking space.

Section 10. Based upon the foregoing, the Planning Commission hereby adopts the Negative Declaration and approves Tentative Tract Map No. 53673, a Development Plan Review Permit and R-4 Permits for the project (including one efficiency unit), subject to the following conditions:

1. Except as modified by the conditions set forth hereafter, the project shall be developed in substantial compliance with the plans submitted to and reviewed by the Planning Commission on December 13, 2001.
2. In addition to the conditions set forth in this Resolution, Tentative Tract Map No. 53673 shall comply with all conditions required by the City's various departments, including the conditions, if any, imposed by the Departments of Public Works, Engineering, Building & Safety, Fire and Police.
3. The applicant shall secure all necessary permits from the Public Works Department and the Engineering Division prior to commencement of any demolition or project related work.

4. The project shall be subject to the review and approval of the Architectural Commission and any conditions that they may deem appropriate.
5. The applicant shall redesign the mechanical penthouse to comply with all applicable provisions of the Beverly Hills Municipal Code.
6. The applicant shall dedicate two and one-half feet (2.5') for future widening of the alley.
7. Prior to the issuance of occupancy permits, the applicant shall prepare and submit a covenant requiring that the efficiency unit remain as shown on the plans dated December 13, 2001, and further requiring that there shall be no separate bedroom created in the efficiency unit. The covenant shall be signed by the applicant and the property owner, and shall be in a form satisfactory to the City Attorney and recordable by the Los Angeles County Recorder. At the time the applicant delivers the covenant to the City, the applicant shall provide the City with all fees necessary to record the document with the County Recorder.
8. Approval of this project is subject to any and all other discretionary approvals required by the City for the project and for the approval of the Tentative Tract Map.
9. A detailed landscape plan shall be provided for Architectural Commission review at a later date.

10. An intercom system should be provided to facilitate communication between the unit owners and the guests to gain access into the garage.
11. The applicant shall provide identification signs directing visitors and guests to any specific guest parking space(s) required by Code. Said directional signs and guest parking space identification shall be submitted to the Director of Transportation for his review and approval prior to the issuance of building permits.
12. Prior to the issuance of building permits, the Applicant shall prepare a construction management plan for review and approval by the Engineering Division and the Building & Safety Department. After approval of the construction management plan by the Director of Building & Safety, the Applicant shall participate in a meeting in which residents are allowed to voice any concerns regarding the project and the construction management.
13. The garage gate shall be installed at a location to provide room for at least one vehicle to wait for the gate to open without adversely impacting traffic.
14. The applicant shall maintain the site in an orderly condition prior to commencement of construction, including but not limited to, maintenance of the orderly appearance of existing structures and landscaping on the site, dust

suppression for areas cleared by demolition, maintenance of safety barriers and adjacent public sidewalks, and provision of a contact person directly accessible to the public by telephone in the event that the public has any concerns regarding the maintenance of the site. The name and telephone number of the contact person shall be transmitted to the Director of Planning and Community Development and the Director of Building and Safety.

15. Within three working days after approval of this resolution, the applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of \$25.00 for a documentary handling fee in connection with Fish and Game Code requirements. If the Department of Fish and Game determines that this project is not exempt from a filing fee imposed pursuant to Fish and Game Code Section 711.4, then the applicant shall also pay to the Department such fee and any fine which the Department determines to be owed.
16. A cash deposit of \$5,000 shall be deposited with the City to ensure compliance with the conditions of this resolution regarding construction activities. Such deposit shall be returned to applicant upon completion of all construction activities and in the event that no more than two violations of such conditions or the Beverly Hills Municipal Code occur. In the event that three or more such violations

occur, the City may: (a) retain the deposit to cover costs of enforcement; (b) notify the applicant that the applicant may request a hearing before the City within ten days of the notice; and (c) issue a stop work notice until such time that an additional deposit of \$10,000 is deposited with the City to cover the costs associated with subsequent violations. Work shall not resume for a minimum of two days after the day that the additional deposit is received by the City. If the applicant timely requests a hearing, said deposit will not be forfeited until after such time that the applicant has been provided an opportunity to appear and offer evidence to the City, and the City determines that substantial evidence supports forfeiture. Any subsequent violation will trigger forfeiture of the additional deposit, the issuance of a stop work notice, and the deposit of an additional \$10,000, pursuant to the procedure set forth herein above. All amounts deposited with the City shall be deposited in an interest bearing account. The applicant shall be reimbursed all interest accruing on monies deposited.

The requirements of this condition are in addition to any other remedy that the City may have in law or equity and shall not be the sole remedy of the City in the event of a

violation of the conditions of this resolution or the Beverly Hills Municipal Code.

17. The conditions set forth in this resolution shall run with the land and shall remain in force for the duration of the life of the project.
18. This resolution approving Tentative Tract Map No. 53673 and issuing a Development Plan Review Permit and R-4 Permits shall not become effective until the owner of the project site records a covenant, satisfactory in form and content to the City Attorney, accepting the conditions of approval set forth in this resolution. The covenant shall include a copy of this resolution as an exhibit.

The applicant shall deliver the executed covenant to the Department of Planning and Community Development within 60 days of the Planning Commission decision. At the time that the applicant delivers the covenant to the City, the applicant shall also provide the City with all fees necessary to record the document with the County Recorder. If the applicant fails to deliver the executed covenant within the required 60 days, this resolution approving the project shall be null and void and of no further effect. Notwithstanding the foregoing, the Director of Planning and Community Development may, upon a request by the applicant, grant a waiver from the 60-day time limit if, at the time of

the request, the Director determines that there have been no substantial changes to any federal, state or local law that would affect the project.

19. The Applicant shall protect all existing street trees adjacent to the subject site during construction of the proposed subdivision. No street trees shall be removed and/or relocated unless approval from the Department of Recreation and Parks is obtained. Removal and/or replacement, if approved, shall be accomplished in accordance with the specifications of the Public Services Director and the Engineering Department. Removal and/or replacement of any street tree shall not commence until the Applicant has provided the City with an improvement security, in an amount to be determined by the Public Services Director, and in a form approved by the Engineering Department and the City Attorney, to ensure satisfactory regrowth of any relocated or replacement street trees.
20. Prior to the issuance of building permits, the applicant shall prepare a construction parking and hauling plan for review and approval by the Director of Transportation. All construction-related parking and heavy hauling shall conform to the construction parking and hauling plan approved by the Director of Transportation. Construction-related parking shall be prohibited on adjacent residential streets. No

heavy hauling activity shall be permitted between the hours  
of 4:00 p.m. and 10:00 a.m.

Section 11. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and her certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: 1-23-02

  
STEPHEN P. WEBB  
Chairman of the Planning  
Commission of the City of  
Beverly Hills

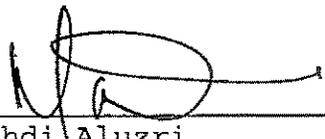
ATTEST:

  
Secretary

Approved as to form:

  
Robert A. Pittman  
Assistant City Attorney

Approved as to content:

  
Mahdi Aluzri  
Deputy Director of Planning &  
Community Development

1/09/02